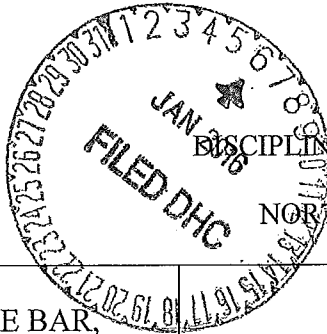


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
16 DHC 2

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

AMY E. ALLRED, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Amy E. Allred ("Defendant" or "Allred"), was admitted to the State Bar in 1999 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the State Bar and the laws of the State of North Carolina.

3. During all or some of the times relevant herein, Allred actively engaged in the practice of law in the State of North Carolina and maintained a law office or law offices in Catawba County and/or Forsyth County, North Carolina.

4. On May 20, 2015, in the case of Amy Allred Leonard v. Jonathon W. B. Leonard, Forsyth County District Court civil action no. 05 CVD 405, the Honorable Jane V. Harper ordered Allred to submit to a psychological evaluation and a substance abuse assessment. The order contains findings of fact including the following:

[Allred] at times drinks to excess in the presence of her children. She becomes loud and angry when drinking, and upsets the children.

Both children of [Allred] ... have expressed concerns over [Allred's] consumption of alcohol.

[Allred] is an attorney licensed by the North Carolina State Bar and has been practicing law for fifteen (15) years.

[Allred's] demeanor during the hearing towards the court, her mode and method of questioning witnesses during the instant proceedings, her speaking out of turn, even after repeated warnings by the court, support Defendant['s] request for a Mental Health Evaluation.

[Allred's] own motion filed March 10, 2015 in this matter supports Defendant's request for a Mental Health Evaluation of [Allred].

5. Allred has not complied with the court order requiring her to submit to a psychological evaluation and a substance abuse assessment.

6. Allred filed a frivolous lawsuit in the United States District Court for the Eastern District of North Carolina, *Allred v. Harper, et al*, civil action no. 7:15-CV-117-D, against five judges who played roles in a domestic case to which Allred was a party, including Judge Harper, one or more assistants to the defendant judges, and the State of North Carolina. The court dismissed the lawsuit on July 23, 2015.

7. Allred's filed the complaint in civil action no. 7:15-CV-117-D for an improper purpose.

8. Allred filed a frivolous lawsuit in the United States District Court for the Western District of North Carolina, *Allred v. The Iredell County Sheriff's Department et al*, civil action no. 5:14-CV-074, against the Sheriff of Iredell County and one of his deputy sheriffs.

9. After the defendants in civil action no. 5:14-CV-074 moved to dismiss the complaint for ineffective service of process, Allred filed a Response and Second Amended Complaint without seeking or obtaining leave of court to file a second amended complaint.

10. The court in civil action no. 5:14-CV-074 entered an order stating "[p]laintiff is reminded of her obligation under [Fed. R. Civ. P.] 11(b)(3) which states, in part, that '[b]y presenting to the court a pleading, written motion, or other paper ... an attorney or unrepresented party certifies that to the best of the person's knowledge, information and belief ... the factual contentions have evidentiary support.'" On November 6, 2014, Allred dismissed the lawsuit without prejudice.

11. Allred has filed multiple complaints to the Judicial Standards Commission ("JSC") against judges which the JSC concluded were unfounded.

12. Allred provided inappropriate, nonresponsive, incoherent and rambling communications in purported response to letters of notice and other communications from the State Bar's Grievance Committee.

### **FIRST CLAIM FOR RELIEF**

13. The foregoing facts alleged in Paragraphs 1 through 12 establish probable cause to conclude that Allred has a mental or physical condition which significantly impairs her professional judgment, performance, or competence.

THEREFORE, the State Bar alleges that there is probable cause to believe that Allred suffers from a mental or physical condition that significantly impairs her professional judgment, performance, or competency to act as an attorney, that Allred should be ordered to undergo evaluation by medical professionals approved by this Hearing Panel to determine whether she is disabled within the meaning of 27 N.C. Admin. Code 1B § .0103(19), and, if so, that Allred should be transferred to disability inactive status pursuant to 27 N.C. Admin. Code 1B § .0118.

### **SECOND CLAIM FOR RELIEF**

14. Paragraphs 1 through 12 are re-alleged and incorporated as if fully set forth herein.

THEREFORE, Plaintiff alleges that Allred's foregoing acts and omissions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) in that Allred violated the Rules of Professional Conduct as follows:

By failing to comply with Judge Harper's order to undergo a psychological evaluation and a substance abuse assessment, Allred engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

### **THIRD CLAIM FOR RELIEF**

15. Paragraphs 1 through 12 are re-alleged and incorporated as if fully set forth herein.

THEREFORE, Plaintiff alleges that Allred's foregoing acts and omissions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) in that Allred violated the Rules of Professional Conduct as follows:

By filing frivolous lawsuits and by filing an amended complaint without obtaining leave of court, Allred brought proceedings without a basis in law and in fact for doing so that is not frivolous and without a good faith argument for an extension, modification or reversal of existing law in violation of Rule 3.1 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

#### **FOURTH CLAIM FOR RELIEF**

16. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set forth herein.

17. In October 2012, Allred undertook to represent Caryn Boyer in a child custody and child support case.

18. During the representation, Allred repeatedly assured Boyer that Allred would complete the necessary work on Boyer's case by the end of the week in which each such communication occurred.

19. After giving the assurances referenced in paragraph 18 above, Allred did not communicate with Boyer again for many weeks and then communicated with Boyer only after repeated requests by Boyer to do so.

20. Allred never completed the legal services she undertook to perform for Boyer.

THEREFORE, Plaintiff alleges that Allred's foregoing acts and omissions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) in that Allred violated the Rules of Professional Conduct as follows:

By failing to communicate timely with Boyer and by failing to provide the legal services she undertook to provide for Boyer, Allred failed to act with reasonable diligence and promptness in violation of Rule 1.3, failed to keep Boyer reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4).

#### **FIFTH CLAIM FOR RELIEF**

21. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set forth herein.

22. In April 2013, Nicholas Kirkley retained Allred to represent him in a child support case and to file on his behalf a motion to modify child custody.

23. Allred knew that Kirkley had been served with a notice to show cause why he should not be held in contempt for failing to pay child support.

24. Allred told Kirkley opposing counsel wanted to schedule mediation.

25. On numerous occasions, Kirkley asked Allred what mediation would cost, where and what time mediation would occur, and what would happen at mediation.

26. Allred did not respond to Kirkley's questions referenced in paragraph 25 above.

27. Kirkley asked Allred at the outset of the representation and again on May 24, June 25, August 9, August 11 and August 12, 2013 to file a motion to modify child custody.

28. Allred never filed a motion to modify custody on Kirkley's behalf.

29. Kirkley asked Allred on May 8, May 24, June 25, August 9, August 11 and August 12, 2013 to file a motion for temporary custody.

30. Allred never filed a motion for temporary custody on Kirkley's behalf.

31. On August 14, 2013, Kirkley notified Allred that he was terminating the attorney-client relationship.

32. On August 19, 2013, Kirkley sent an email to Allred, apologizing for telling her he was terminating the relationship and indicating that he wanted her to continue representing him.

33. On August 19, 2013, Allred told Kirkley that family responsibilities prevented her devoting the necessary time and attention to Kirkley's case and advised him to find substitute counsel.

34. On September 9, 2013, the court entered an order allowing Allred to withdraw from Kirkley's case. Prior to entry of the court's order dated September 9, 2013, Allred remained counsel of record for Kirkley and was obligated to keep him reasonably informed of upcoming court proceedings.

35. Allred failed to timely (or ever) notify Kirkley of a hearing scheduled in Kirkley's case on August 27, 2013 and Allred did not attend the August 27, 2013 hearing on Kirkley's behalf.

36. Kirkley asked Allred to provide an accounting of the legal services she performed on his behalf and of the application of legal fees paid by Kirkley.

37. Allred did not provide the accounting of legal services and of the application of legal fees requested by Kirkley.

38. Allred did not provide the legal services she undertook to perform for Kirkley.

39. Allred did not earn the legal fee paid to her by Kirkley.

THEREFORE, Plaintiff alleges that Allred's foregoing acts and omissions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) in that Allred violated the Rules of Professional Conduct as follows:

a. By failing to communicate timely with Kirkley and failing to provide the legal services she committed to provide for Kirkley, Allred failed to act with reasonable diligence and promptness in violation of Rule 1.3;

b. By failing to respond to Kirkley's communications requesting information about his legal matter, Allred failed to keep Kirkley reasonably informed about the status of the matter in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

c. By failing to appear on Kirkley's behalf at the August 27, 2013 hearing in his case, Allred failed to act with reasonable diligence and promptness in violation of Rule 1.3 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and

d. By failing to provide an accounting of the time she expended on Kirkley's behalf and of the application of legal fees paid by Kirkley and by failing to refund the unearned fee, Allred failed to respond to reasonable requests for information in violation of Rule 1.4(a)(4), charged a clearly excessive fee in violation of Rule 1.5(a), and did not refund an unearned fee in violation of Rule 1.16(d).

#### **SIXTH CLAIM FOR RELIEF**

40. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set forth herein.

41. Allred undertook to represent Jill Lewis ("Lewis") in a child custody case.

42. Allred quoted Lewis a \$4,000 flat fee.

43. On 18 April 2012, Lewis paid Allred \$1,000 of a \$4,000 "flat fee" charged by Allred to seek to continue a scheduled 2 May 2012 hearing and to begin reviewing the case.

44. After she received the \$1,000 payment from Lewis, Allred did not communicate with Lewis and did not respond to communications from Lewis.

45. On 2 May 2012, Allred told Lewis that she had not been able to review Lewis' file and would not seek to have the case continued because she had "only been partially retained."

46. Allred handed Lewis' file to Lewis, wished her "good luck," and left Lewis without counsel at a scheduled court hearing.

47. Allred did not perform the legal services she undertook to perform for Lewis.

48. Allred did not earn the \$1,000 fee she received from Lewis.

49. Allred did not refund the \$1,000 she received from Lewis.

THEREFORE, Plaintiff alleges that Allred's foregoing acts and omissions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) & 84-28(b)(3) in that Allred violated the Rules of Professional Conduct as follows:

a. By failing to communicate timely with Lewis, failing to provide the legal services she undertook to provide for Lewis, and failing to seek a continuance of Lewis' case, Allred failed to act with reasonable diligence and promptness in violation of Rule 1.3;

b. By failing to refund an unearned fee, Allred charged a clearly excessive fee in violation of Rule 1.5(a) and did not refund an unearned fee in violation of Rule 1.16(d); and

c. By terminating the attorney-client relationship without taking necessary steps to protect Lewis' interests, Allred violated Rule 1.16(d).

### **SEVENTH CLAIM FOR RELIEF**

50. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set forth herein.

51. Allred undertook to represent Vicky Yockel ("Yockel") in an alimony and property settlement case.

52. Allred quoted Yockel a \$4,000 flat fee.

53. In May 2013, Yockel paid Allred \$1,000 towards the total \$4,000 fee.

54. Allred and Yockel agreed that Yockel would continue to make monthly payments towards the \$4,000 fee.

55. Allred filed a motion to continue a May 2013 hearing in Yockel's case because Allred was moving and went on vacation, and therefore was unable to prepare sufficiently for the hearing.

56. Allred charged Yockel for time expended and travel undertaken in obtaining the continuance.

57. Yockel contacted Allred repeatedly by telephone and email to inquire about her case.

58. Allred did not respond to Yockel's telephone and email inquiries.

59. Yockel terminated the representation and asked Allred to send Yockel her file, which contained original documents and photographs.

60. Allred did not return Yockel's file for two months.

61. Allred did not perform the legal services she undertook to perform for Yockel.

62. Allred did not earn the \$1,000 fee she received from Yockel.

63. Allred did not refund the \$1,000 she received from Yockel.

THEREFORE, Plaintiff alleges that Allred's foregoing acts and omissions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Allred violated the Rules of Professional Conduct as follows:

a. By charging fees and costs incurred by Allred in obtaining a continuance caused by Allred's inability to appear at a scheduled court hearing because of personal priorities and by failing to refund the unearned fee, Allred charged a clearly excessive fee in violation of Rule 1.5(a) and failed to refund an unearned fee in violation of Rule 1.16(d).

b. By failing to return Yockel's documents and photographs promptly, Allred failed to take reasonable steps to protect the interests of Yockel at the end of the representation in violation of Rule 1.16(d); and

c. By failing to respond to Yockel's communications seeking information about the status of Yockel's legal matter, Allred failed to keep Yockel reasonably informed about the status of the matter in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4).

WHEREFORE, Plaintiff prays for an order:

1. Requiring Allred to submit to a psychiatric examination and evaluation by a licensed medical professional designated by the Hearing Panel pursuant to 27 N.C. Admin. Code 1B § .0118(d)(3) and North Carolina Rules of Civil Procedure 35(a) to determine whether she is disabled within the meaning of 27 N.C. Admin. Code 1B § .0103(19); and

2. If found by the DHC to be disabled, transferring Allred to disability inactive status in accordance with N.C. Gen. Stat. § 84-28(g) and 27 N.C. Admin. Code 1B § .0118(d)(5)(a).

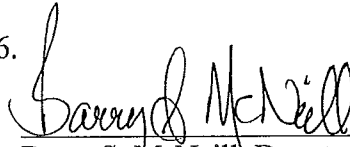
In the alternative, if the Hearing Panel does not find that Allred is disabled within the meaning of 27 N.C. Admin. Code 1B § .0103(19) and does not transfer her to disability inactive status pursuant to 27 N.C. Admin. Code 1B § .0118 as set forth in the First Claim for Relief, or in the event Allred is transferred to disability inactive status and subsequently returns to active status, Plaintiff prays that:

1. Disciplinary action be taken against Allred in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C. Admin. Code 1B § .0114), as the evidence on hearing may warrant;

2. Allred be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and

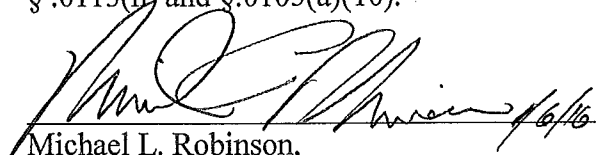
3. For such other and further relief as is appropriate.

This the 6<sup>th</sup> day of January, 2016.



Barry S. McNeill, Deputy Counsel  
State Bar No. 8887  
Attorney for Plaintiff, North Carolina State Bar  
P.O. Box 25908, Raleigh, NC 27611  
(919) 828-4620

Signed pursuant to 27 N.C. Admin. Code 1B  
§ .0113(n) and §.0105(a)(10).



Michael L. Robinson,  
Chair, Grievance Committee